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MAY 17 2006

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
(Case No. 05-214)

In re Application of:)	
Slinger)	Examiner: Timothy J. Thompson
Serial No.: 10/528,670)	Group Art Unit: 2873
Filed: March 22, 2005)	Fax No.: 571-273-8300
Title: Reconfigurable Spatial Light Modulators)	No. Of Pages: 3

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

FACSIMILE TRANSMITTAL LETTER

Sir:

In regard to the above identified application:

1. We are transmitting herewith the attached:
 - a. Response to the April 20, 2006 Restriction Requirement
2. With respect to fees.
 - a. Please charge any additional fees or credit overpayment to Deposit Account No. 13-2490.
3. CERTIFICATE OF MAILING UNDER 37 CFR § 1.8: The undersigned hereby certifies that this Transmittal Letter and the paper, as described in paragraph 1 hereinabove, are being transmitted to the USPTO facsimile number 571-273-8300, according to 37 CFR 1.6(d) addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on May 17, 2006.

Respectfully submitted,

By :

C. Blair Hughes
A. Blair Hughes
Reg. No. 32,901

Date: May 17, 2006

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PATENT

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Slinger) Examiner: Timothy J. Thompson
Serial No.: 10/528,670)
Filed: March 22, 2005) Art Unit: 2873
Title: Reconfigurable Spatial Light Modulators)

RESPONSE TO THE APRIL 20, 2006 RESTRICTION REQUIREMENT

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

On April 20, 2006, the examiner issued a requirement that the Applicant restrict the claims of the above-identified application to one of two inventions for examination purposes. The Applicant traverses the restriction requirement and provides a provisional election below.

I. THE TRAVERSE

The examiner requires restriction of the claims of the above identified invention to one of two inventions. The above-identified application is a PCT national phase application. Therefore, any restriction requirement for this application must be based upon a unity of invention claim analysis. The present restriction requirement is improper because it is not premised upon unity of invention principals. Moreover, all of the application claims possess unity of invention and must be examined together.

The examiner has incorrectly analyzed the claims of this application for restriction purpose using U.S. restriction practice principals. The examiner concluded that restriction of the invention

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is necessary because the inventions are "patentably distinct" from each other. Moreover, the examiner cited to MPEP § 806.05(j) in support of the lack of distinctiveness position.

MPEP section 806.05(j) and claim distinctiveness are not pertinent to a unity of invention analysis. The proper analysis of claims for unity of invention is whether or not there is a special technical relationship among the inventions that involve one or more of the same or corresponding technical features. "Special technical features" are technical features that define a contribution which each of the inventions are considered as a whole to make over the prior art.

Under a proper unity of invention analysis, independent claims 1, 19 and 21 each possess at least the key common special technical feature of a scattering plate of known technical characteristics that is used for scattering light from a spatial light modulator. Because independent claims 1, 19 and 21 each possess at least this common special technical feature, claims 1-21 must be considered and examined in a single application.

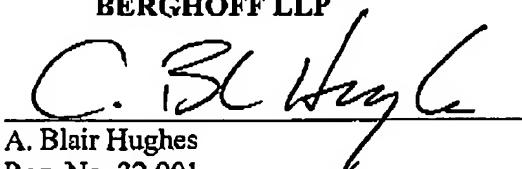
II. PROVISIONAL ELECTION

In accordance with 37 CFR 1.499, the Applicant provisionally elects to proceed with examination Group I claims 1-18 directed to a spatial light modulator classified in class 359 subclass 245.

Respectfully submitted,

McDONNELL BOEHNEN HULBERT &
BERGHOFF LLP

By:


A. Blair Hughes
Reg. No. 32,901

Dated: May 17, 2006